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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,007	07/17/2003	Dean R. Anderson	ANDE-019	4585

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EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/623,007	Applicant(s) ANDERSON, DEAN	
	Examiner Joseph C Rodriguez	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,11-17 and 19 is/are rejected.
- 7) ☒ Claim(s) 8,10,18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/17/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of claim 10 and 20 (i.e., tubular member rotated by a motor unit that has a longitudinal slot) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9, 11-15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Willis (US 393,411).

Regarding claims 1-4 and 11-14, Willis teaches a system (Fig. 1, 2) comprising a frame (structure supporting E such as receptacle N), a cleaning chamber (inner chamber from N to P), a blower unit (L), a grain inlet (near D'), an exhaust chamber (inner chamber from opening of I to bottoms of G, G'), and an exhaust damper (plate H near opening I). Here, the rotating spout (M) can be regarded as a cleaning damper as claimed by Applicant as it comprises a movable plate structure that functions to regulate the air flow in the cleaning chamber.

Regarding claims 5, 9, 15 and 19, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the exhaust damper is certainly capable of creating current patterns that indirectly control the airflow within said cleaning chamber (p. 2, ln. 16-21). Further, the first control member (Fig. 2, gate F) is certainly capable of preventing pressurized air from passing through said grain inlet as

Willis teaches that said gate is adapted to "entirely close" the grain passageway (p. 1, ln. 44-47).

Claims 1-7, 9, 11-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hauch (US 6,405,405).

Regarding claims 1-6 and 11-16, Hauch teaches a system (Fig. 1-6, best shown in fig. 1) comprising a frame (base structure supporting 12), a cleaning chamber (12), a blower unit *fluidly connected* to a lower portion of said cleaning chamber (col. 3, ln.18-22), a grain inlet (20; col. 2, ln. 53-67), an exhaust chamber (34), an exhaust damper (100 with knob-like handle as shown in fig. 1; col. 3, ln. 43-46 wherein damper implicitly controls air flow with a planar (i.e., plate) surface) and a cleaning damper (140).

Regarding claims 7 and 17, when viewed from the top of the cleaning chamber, the cleaning dampers of Hauch can be regarded as reducing the cross sectional size of the cleaning chamber air flow area (See e.g., "view from top" as shown in Hedfeldt Fig. 2 and 4 cited below).

Regarding claims 9 and 19, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the first control member (rotatable shaft 28) is certainly capable of preventing pressurized air from passing through said grain inlet as Hauch teaches that said control member closes the throat of said inlet (col. 2, ln. 53-67).

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hedfeldt (US 971,608).

Hedfeldt teaches a system (Fig. 1-3) comprising a frame (base structure C), a cleaning chamber (D), a blower unit (A) fluidly connected to a lower portion of said cleaning chamber, a grain inlet (D1), an exhaust chamber (discharge funnels F1), an exhaust damper (F or D5) and a cleaning damper (E or D4), wherein Hedfeldt teaches using said dampers to vary the cross-sectional size of the cleaning chamber to control the airflow (p. 2, ln. 4-49).

Allowable Subject Matter

Claims 8, 10, 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C Rodriguez whose telephone number is **703-308-8342**. The examiner can normally be reached on M-F during normal business hours (9 am – 6 pm, EST).

The **Official** fax phone number for the organization where this application or proceeding is assigned is **703-872-9326** (After-Final **703-972-9327**).

The **UnOfficial** fax phone number for the organization where this application or proceeding is assigned is **703-306-2571** or **703-308-6552**.

The examiner's **UNOFFICIAL Personal fax number** is **703-746-3678**.

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only.

For more information about the PAIR system, see


<http://pair-direct.uspto.gov>

Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (Toll Free).

Alternatively, inquiries of a general nature or relating to the status of this application or proceeding can also be directed to the **Receptionist** whose telephone number is **703-308-1113**.

Signed by Examiner Joseph Rodriguez

jcr



November 15, 2004